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Our Ref IXJ/BEN309/2
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Planning Services
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FAO of Benjamin Hurst

By Post and Email: Benjamin.hurst@staffsmoorlands.gov.uk
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06 September 2016

Dear Sirs

Application No: SMD/2016/0420: Certificate of Lawful Use
Applicant: Horizon Care Education Group Limited, Ivy House, Freehay Road, Cheadle

Please note we act on behalf of Mr Nicholas Bentley of Hill Rise, Freehay Road, Mobberley, Cheadle, ST10 1TP.

You will be aware that Mr Bentley lives in close proximity to Ivy House. You will also be aware that there have been many complaints made about the operations of this Care Home over a number of years.

We submitted an objection to the previous application for a Certificate of Lawfulness on this property (SMD/2015/0614) on behalf of our client. On that occasion the Council decided that the applicant had not supplied sufficient evidence to support the application.

You will have noted from our previous objections regarding the operations at the Care Home, that we submitted that, its formal planning use is that of a C2 residential institution for young people rather than a C3(b) dwellinghouse where residents live as a single household with care provided.

In the current application the applicant has sought to supply more information about the operational use of the facility. However, this evidence again points to a C2 planning use rather than a C3(b). The key differentiating factor in our view is the fact that the staff do not live with the children as a single household to demonstrate a C3(b) use.

The new application simply suggests that the staff work on a rotating shift based system over a 24 hour period. It doesn't confirm or emphasise whether the staff live on the site

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with the children as a single household. In fact a document submitted with the application titled "Statement of Purpose" also suggests that the staff do not live on site as a single household – "waking staff are only present if a specific request is made by a placing authority or an assessment.....identifies for the need for waking night members of staff to be present" suggest otherwise.

We therefore submit that this application for a Certificate of Lawfulness should be again rejected by the Council.

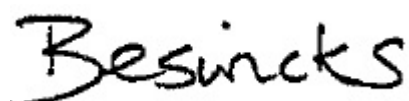
The Council should now reconsider its enforcement powers. It is apparent that this care facility has been operating without the correct planning authorisation in place for some time. This also needs to be considered in terms of the number of complaints that have been made in terms of its operation.

In the Council's enforcement letter of the 11th April 2016 it was stated that the Council did not believe that there had been a "material change of use" in 2011 from that of an ordinary C3 dwellinghouse, to warrant taking any enforcement action. We submit that this approach appears to fly in the face of the many objections that the Council has received from our client and other residents about the operations of the Care Home.

We have referred the Council to the case of West Midlands Probation Service –v- the Secretary of State for the Environment and Walsall Borough Council 1997 which confirm that public concerns about the operations of a probation hostel were capable of being "material considerations" in determining a planning application. We therefore submit again that the objections by local residents about the operations of this Care Home should be taken into account in terms of the Council's decision whether to take enforcement action. These complaints and objections clearly demonstrate that there has been "a material change of use" in this property, and that it is not being operated as a normal dwellinghouse.

We therefore urge the Council to refuse this application and consider its enforcement powers as a matter of priority.

Yours faithfully

A handwritten signature in black ink that reads "Beswicks". The script is cursive and fluid, with the 'B' being particularly large and the 's' at the end having a long, sweeping tail.

Beswicks Legal

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